

MINUTES
UTAH
CONTROLLED SUBSTANCES ADVISORY COMMITTEE
MEETING

September 20, 2011

North Conference Room – 4:20 P.M.
Heber M. Wells Building
Salt Lake City, UT 84111

CONVENED: 3:04 P.M.

ADJOURNED: 4:20 P.M.

Bureau Manager:
Board Secretary:

Richard J. Oborn
Lee Avery

Committee Members Present:

David N. Sundwall, MD, Chair
Kristen Ries, MD
Todd C. Grey, MD
Major Jeff Carr
Jeffrey Wright, ND
Darin M. Vercillo, MD
Elizabeth Howell, MD
David C. Young, R. Ph

Committee Members Excused

Alexander B. Larsen, DDS
Glen R. Hanson, DDS
Scott Reed

Guests:

Adam Webster, pharmacy intern/student
Jennifer McNair, Dept. of Public Safety, Crime Lab

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Update on committee Membership

Mr. Oborn advised the Committee that the nomination for the vacant APRN position on the Committee was sent to the Governor's Office.

Minutes:

The Committee reviewed the minutes dated July 21, 2011. Dr. Ries motioned to approve the minutes seconded by Dr. Vercillo. The motion carried unanimously.

1. Report from Dr Sundwall regarding results from survey of local health departments

Dr. Sundwall advised the Committee that he continues to seek help from public health departments regarding

the survey of Spice usage in their jurisdictions. Dr. Sundwall noted that there has not been a very good response. The Committee reviewed the response from Central Utah Region Health Department.

Mr. Oborn advised the Committee that there is nothing new to report from Utah Poison Control as of the date of this meeting.

2. Additional cannabinoid substances to consider for placement on controlled substance list

Ms. McNair reviewed statistics regarding Spice and Bath Salt compounds with the Committee. Data indicates that manufacturers and stores likely reacted to the ban by ceasing distribution of substances specifically banned during the 2011 General Legislative Session. Once the other substances were banned, the manufacture's and stores likely began to distribute products with slightly different synthetic cannabinoid substance like AM-2201. The Committee noted the increase in usage of substances not yet specifically listed in the controlled substance list.

3. Discussion regarding designer drugs and other substances of concern

The Committee noted that the DEA banned methadone. Mr. Oborn reviewed information that Dr. Ries submitted. Mr. Oborn will forward copies to Committee members.

4. Proposal for legislation that would grant Committee authority to approve temporary placement of substances on controlled substance list prior to legislature's permanent approval.

Mr. Oborn reviewed Mr. Reed's memo which reports his legal analysis of the delegation of legislative authority to the Controlled Substances Advisory Committee. It is Mr. Reed's opinion that it is constitutional for the Legislature to grant the Committee authority to approve temporary placement of substances on the controlled substance list. Under this proposal, the Committee would be granted authority to temporarily place substances on the controlled substance list until the next Legislative session when the Legislature would consider whether to make the placement permanent. The Committee expressed concerns regarding this proposal, noting the following pros and cons:

Pros:

1. Allow law enforcement to be more nimble in responding to public safety concerns;
2. Better protect the public's health, safety, and

- welfare;
- 3. Enable law enforcement to be quicker to identify trends of abuse;
- 4. Could have a deterrent effect on abuse and marketing of products; and
- 5. Parallels federal regulatory authority to institute temporary bans on substances.

Cons:

- 1. Possibility of lack of sufficient evidence to warrant regulation of a substance;
- 2. Question of whether this proposal would add to the demands on law enforcement that are already increasing; and
- 3. Committee may lose credibility with the Legislature if it recommends a ban on a substance that later appears to be premature.

The Committee noted that the proposed changes would allow this Committee to meet, thoroughly review substances of concern, and temporarily place a substance on the controlled substance list if the Committee finds that controlling the substance is necessary to avoid an imminent hazard to the public safety. The Committee would consider the imminent hazard to the public safety before acting. This temporary listing would remain in effect until the end of the next General Legislative Session, at which time the Legislature would take action to permanently list, schedule, or remove the temporarily listed substance from the controlled substance list.

The Committee discussed how the Committee would base its recommendation on reports of abuse of the substance, clandestine importation and manufacture and/or distribution of the substance.

5. Drafting of written report to Health and Human Services Interim Committee due Sept. 30, 2011

Mr. Oborn reviewed a rough draft of the written report due to be submitted to the Health and Human Services Interim Committee before Sept. 30, 2011. Mr. Oborn will send a final draft to the Committee. Committee members requested that the written report recommend that the Legislature consider placing AM-2201, RCS-4, JWH-210, and JWH-203 on the controlled substance list. The Committee also requested that the

report recommend that the Legislature consider options of how to enable law enforcement to be more nimble in responding to new versions of harmful products created by manufacturers. One option would be for the Legislature to grant the Controlled Substances Advisory Committee the authority to approve temporary placement of substances on the controlled substance list until the next Legislative session when the Legislature would consider whether to make the placement permanent.

The Committee discussed how Utah Code 58-37-5.5 enables prosecution of unlawful possession of “analogs” of substances already banned in 58-37-4.2. Some local jurisdictions are hesitant to proceed with analog cases due to the extra preparation time required and expert witness testimony needed to prove this charge. Law enforcement is already overburdened and understaffed.

6. Scheduling of future meetings

The Board decided meet again on November 29, 2011 at 3:00 pm

ADJOURN:

Adjourn: 4:20 P.M.

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

November 29, 2011
Date Approved

(ss) David N. Sundwall
Chairperson, Controlled Substances Advisory
Committee

November 14, 2011
Date Approved

(ss) Richard J. Oborn
Bureau Manager, Division of Occupational &
Professional Licensing